

STATE OF MICHIGAN  
IN THE SUPREME COURT

HORACE SHEFFIELD III and RODRICK HARBIN,  
individuals,

Plaintiffs-Appellees

and

ALLEN A. LEWIS and INGRID WHITE,  
individuals,

Plaintiffs-Appellees,

vs.

JANICE WINFREY, in her official capacity as Clerk  
for the City of Detroit, and CITY OF DETROIT  
ELECTION COMMISSION,

Defendants,

and

DETROIT CHARTER REVISION COMMISSION,

Intervening Defendant-Appellant.

Supreme Court No. 163084

Court of Appeals No. 357298

Court of Appeals No. 357299

Wayne County Circuit Court

Case No. 21-006043-AW

Case No. 21-006040-AW

Hon. Chief Judge Timothy M. Kenny

**PLAINTIFFS-APPELLEES  
HORACE SHEFFIELD III AND  
RODRICK HARBIN'S  
SUPPLEMENTAL BRIEF IN  
OPPOSITION TO INTERVENER  
DETROIT CHARTER REVISION  
COMMISSION'S EMERGENCY  
APPLICATION FOR LEAVE TO  
APPEAL**

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## TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
QUESTIONS PRESENTED.....	iii
INTRODUCTION .....	1
ARGUMENT.....	1
I.    A City Charter Commission Cannot Submit a Proposed Revision of a City Charter to Voters over the Governor’s Veto.....	1
A.    The Governor Has the Power to Veto Proposed Revised City Charters. ....	1
B.    City Charter Commissions Have No Authority to Override a Governor’s Veto.....	2
II.    The Amendment History of MCL 117.22 Further Demonstrates That a City Charter Revision Commission Has No Authority to Override a Governor’s Veto.....	4
CONCLUSION.....	5

# **TABLE OF AUTHORITIES**

	Page(s)
<b>CASES</b>	
<i>Bush v Shabahang</i> , 484 Mich 156; 772 NW2d 272 (2009).....	4
<i>Dye v Esurance Prop &amp; Cas Ins Co</i> , 504 Mich 167; 934 NW2d 674 (2019).....	3
<i>Hoerstman Gen Contracting, Inc v Hahn</i> , 474 Mich 66; 711 NW2d 340 (2006).....	2
<i>Johnson v Recca</i> , 492 Mich 169; 821 NW2d 520 (2012).....	3
<b>CONSTITUTIONS</b>	
1908 Const, art 5, § 36.....	2, 3
1963 Cost, art 2, § 9.....	3
1963 Const, art 4, § 33.....	3
Ariz Const, art 13, § 2.....	3
Okla Const, art 18, § 3(a).....	3
US Const, art 1, § 7.....	2, 3
<b>STATUTES</b>	
MCL 45.516.....	3
MCL 78.18.....	3
MCL 117.22.....	1, 2, 3
<b>OTHER AUTHORITIES</b>	
1909 PA 279 .....	3
1913 PA 5 .....	3
1913 SB 88.....	4
1913 House Journal.....	4

**QUESTIONS PRESENTED**

1. Whether a proposed revision of a city charter can be submitted to the voters without the Governor's approval of the revision, see MCL 117.22; and
2. The relevance, if any, of the amendment history of MCL 117.22, see, in particular, 1909 PA 279 PA 5.

## **INTRODUCTION**

Pursuant to the Court’s June 23, 2021 Order, Plaintiffs-Appellees Rev. Horace Sheffield III and Roderick Harbin (“Appellees”) submit their supplemental brief in opposition to Intervening Defendant-Appellant Detroit Charter Revision Commission’s (the “Charter Commission”) Emergency Application for Leave to Appeal, and state as follows:

## **ARGUMENT**

### **I. A City Charter Commission Cannot Submit a Proposed Revision of a City Charter to Voters over the Governor’s Veto.**

Under the plain language of MCL 117.22, and multiple canons of statutory interpretation, a city charter commission cannot submit a proposed revision of a city charter without the Governor’s approval. Appellees fully briefed this issue in their opening Response in Opposition to Intervenor Detroit Charter Revision Commission’s Emergency Application for Leave to Appeal. See Appellees’ Resp Br at 13–30. Appellees direct the Court to that argument on the first question presented and hereby incorporate it by reference herein. For the Court’s convenience, Appellees briefly summarize this argument below.

#### **A. The Governor Has the Power to Veto Proposed Revised City Charters.**

All parties agree that, before a proposed revised charter can become law, it must “be transmitted to the governor of the state.” MCL 117.22. And they agree that, upon receipt of a proposed revised charter, the Governor has two options: “If he shall approve it, he shall sign it; if not, he shall return the charter to the commission . . . with his objections thereto . . . .” *Id.* The parties disagree, however, about the effect of these actions.

The Charter Commission and its amici contend that the Governor’s approval or not of a proposed revised charter is a symbolic, “political act,” see Legal Scholars’ Amicus Br at 1, which is “part of the public debate process,” see Charter Commission Br at 20, but has no formal, legal

significance. In the Charter Commission’s view, the sole value of the Governor’s approval is that it “can be touted on the campaign trail,” see *id.*, and the Governor’s “objections are just that—her opinion,” which “may be considered by the Charter Revision Commission.” See *id.* at 16.

This view finds absolutely no support in the statutory text. As the Court of Appeals correctly explained, “[t]he statutory language does not merely provide for public commentary by the Governor.” 3 Charter Commission App 609. Instead, it requires the Governor to “approve” and “sign” proposed revised charters, or to return them to the commission with her objections thereto. MCL 117.22. These are formal acts of governance, not political gestures, and they have formal significance. See Appellees’ Br at 11, 14–16. Indeed, this precise language is traditionally used to provide for a gubernatorial veto. See US Const, art 1, § 7; 1908 Const, art 5, § 36. It has that same meaning here.

#### **B. City Charter Commissions Have No Authority to Override a Governor’s Veto.**

On April 30, 2021, the Governor vetoed the proposed revised charter and returned it to the Charter Commission with a 16-page letter from the Attorney General detailing its “substantial and extensive legal deficiencies.” 3 Charter Commission App 375–392. The only way for the Charter Commission to move forward with that charter, notwithstanding the Governor’s objections, would be to override the Governor’s veto. But the Charter Commission does not have that power.

The Home Rule City Act of 1909 (the “HRCA”) provides a specific mechanism by which *amendments* may be submitted to voters in spite of the Governor’s objections. See MCL 117.22. But it provides no such mechanism for revised charters. Because the “[t]he expression of one thing is the exclusion of another,” see *Hoerstman Gen Contracting, Inc v Hahn*, 474 Mich 66, 74-75 & n8; 711 NW2d 340 (2006), the clear implication is that proposed *revisions* may not be submitted to voters in spite of the Governor’s objections. As the Circuit Court and the Court of Appeals found, that should be the end of this issue. See Circuit Court Op, 1 Charter Commission App 008

(“The language of MCL 117.22 does not provide for a mechanism whereby a revision of the Charter can be submitted to voters without the approval of the Governor.”); COA Majority Op, 3 Charter Commission App 609 (“The statute contains no provisions for overriding or ignoring the Governor’s veto . . .”).

The Charter Commission nonetheless asks this Court to *imply* a right for the Charter Commission to override the Governor’s veto, noting that cities have a right to home rule “[u]nder general laws” and “subject to the constitution and law,” and that other gubernatorial vetoes can be overridden. See Charter Commission Br at 11–15, 20–22. But it is not this Court’s role to add statutory language that a litigant would prefer. “This Court only has the constitutional authority to exercise the ‘judicial power.’” *Johnson v Recca*, 492 Mich 169, 187; 821 NW2d 520 (2012) (quoting Const 1963, art 6, § 1). It has “no right to enter the legislative field and . . . supply what [it] may think might well have been incorporated.” *Id.* (citation omitted); see also *Dye v Esurance Prop & Cas Ins Co*, 504 Mich 167, 180; 934 NW2d 674 (2019) (“A court may read nothing into an unambiguous statute . . . . Neither will this Court rewrite the plain statutory language and substitute our own policy decisions for those already made by the Legislature.” (cleaned up)).

The Legislature clearly knows how to add an override provision when it intends for there to be one. In every instance in which a gubernatorial veto may be overridden, the mechanism for doing so is explicit. See, e.g., 1963 Const, art 4, § 33 (2/3 vote of both Houses); 1908 Const, art 5, § 36 (same); MCL 78.18 (2/3 vote of members); MCL 117.22 (2/3 of members-elect); see also 1963 Const, art 2, § 9 (initiated acts are not subject to gubernatorial vetoes); MCL 117.22 (same); US Const, art 1, § 7 (2/3 vote of both Houses). The Charter Commission has neither identified, nor shown that it has acted pursuant to, any such mechanism. Nor is there anything unusual—much less unconstitutional—about the Legislature’s decision not to authorize a nine-member



commission to override the Governor's veto. See MCL 45.516; Ariz Const, art 13, § 2; Okla Const, art 18, § 3(a). Because the HRCA provides for a gubernatorial veto, but no mechanism for a charter commission to override the Governor's veto, the Charter Commission has no such power.

## II. The Amendment History of MCL 117.22 Further Demonstrates That a City Charter Revision Commission Has No Authority to Override a Governor's Veto.

The amendment history of MCL 117.22 further confirms the interpretation set forth above: a city charter commission may not override a Governor's veto. As originally enacted, the HRCA arguably authorized city charter commissions to override a Governor's veto of a proposed revised city charter by a 2/3 vote. See 1909 PA 279, § 22 (“[I]f two-thirds of the members-elect agree to pass it, it shall be submitted to the electors.”). But in 1913, the Legislature removed that language and replaced it with the current language, which limits the override provision to amendments. See 1913 PA 5, § 22.

As introduced, the 1913 amendment would have kept the same override provision as the original act. See 1913 SB 88, § 22 (**Exhibit A**). But the Legislature specifically chose to delete the word “it”—which arguably referred to both amendments and revisions—and replace it with separate override mechanisms for “amendment[s] proposed by the legislative body” and “amendment[s] proposed by initiatory petition,” and *no* override provision for revisions. See 1913 House Journal 709, ¶¶ 13, 16 (**Exhibit B**). This Court must assume that this change “denotes either a change in the meaning of the statute itself or a clarification of the original legislative intent of the statute.” *Bush v Shabahang*, 484 Mich 156, 169–170; 772 NW2d 272 (2009). “This Court cannot assume that language chosen by the Legislature is inadvertent.” *Id.* at 169.

The meaning of MCL 117.22, as amended, is clear: the plain text provides the Governor with veto power over proposed revisions of municipal charters, and contains no mechanism by

which a city charter commission may override the Governor's veto. As a result, there is no such mechanism, and this Court may not supply one.

### **CONCLUSION**

For the foregoing reasons, and those stated in their opening brief, Appellees respectfully submit that the Circuit Court and the Court of Appeals reached the correct decision in this matter. This Court should deny the application of leave to appeal, and affirm.

Respectfully submitted,

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Dated: July 1, 2021

### **CERTIFICATE OF SERVICE**

I hereby certify that on July 1, 2021, I electronically filed the foregoing document and this certificate of service with the Clerk of the Court using the MiFile e-filing system, which will send notification of such filing to the attorneys of record. I declare under penalty of perjury that these statements are true to the best of my information, knowledge, and belief.

Dated: July 1, 2021

By: /s/ Andrew M. Pauwels

# Exhibit A

# SENATE BILL 88.

FILE NO. 75.

Introduced by Senator Verdier January 21, 1913.

Ordered printed and referred to the Committee on Cities and Villages.

## A BILL

To amend the title and sections 4, 18, 21, 22, 23, 24, 25 and 28 of Act No. 279 of the Public Acts of 1909, entitled "An act to provide for the incorporation of cities and for changing their boundaries," as amended by Act No. 203 of the Public Acts of 1911, and to add a new section thereto.

*The People of the State of Michigan enact:*

1 SECTION 1. The title and sections 4, 18, 21, 22, 23, 24, 25 and 28 of  
2 Act No. 279 of the Public Acts of 1909, entitled "An act to provide for  
3 the incorporation of cities and for changing their boundaries," as  
4 amended by Act No. 203 of the Public Acts of 1911, are hereby amended,  
5 and a new section is added to said act to stand as section 38, said  
6 amended and added sections to read as follows:

1 Title

2 An act to provide for the incorporation of cities and for [revising and  
3 amending their charters.]

1 SEC. 4. Each city may in its charter provide:

2 (a) For annually laying and collecting taxes in a sum not to exceed  
3 two per centum of the assessed value of all real and personal property  
4 in the city;

(b) For borrowing money on the credit of the city in a sum not to exceed eight per centum of the assessed value of all real and personal property in the city: Provided, That in cities where the amount of money which may be borrowed is now limited by law, such limit shall continue until it shall be raised or lowered by a [three-fifths] vote of the electors voting on the question at a general or special election; and in such cities, bonds issued for public improvements in connection with which a special assessment district is made to pay therefor, and which are a charge upon such district, shall not be included unless the contrary is provided by the charter, and the resources of the sinking fund shall be deducted in determining the amount of such indebtedness. The limit of such indebtedness shall not be increased oftener than once a year. No single increase shall exceed two per centum of the assessed value of the real and personal property in the city. When a city is authorized to acquire or operate any public utility, it may [for the purpose of acquiring the same borrow money on the credit of the city in a sum not to exceed one per centum of the assessed value of all the real and personal property of the city, and the city may also, for the purpose of acquiring such public utility,] issue mortgage bonds therefor beyond the general limit of bonded indebtedness prescribed by law: Provided, That such mortgage bonds issued beyond the general limits of bonded indebtedness prescribed by law shall not impose any liability upon such city, but shall be secured only upon the property and revenues of such public

28 utility, including a franchise stating the terms upon which, in case of  
29 foreclosure, the purchaser may operate the same, which franchise shall  
30 in no case extend for a longer period than twenty years from the date of  
31 the sale of such utility and franchise on foreclosure:

32 [And provided further, That the city shall provide in some way for the  
33 ultimate re-payment of the entire cost of any public utility out of the  
34 earnings thereof.] \* \* \* \* In case of fire, flood or other calamity

35 the legislative body may borrow for the relief of the inhabitants of the  
36 city and for the preservation of municipal property, a sum not to ex-  
37 ceed one-fourth of one per centum of the assessed value of all real and  
38 personal property in the city, due in not more than three years, even  
39 if such loan would cause the indebtedness of the city to exceed the limit  
40 fixed in the charter. No city shall have power to incur indebtedness or  
41 issue bonds of any kind except for emergency purposes as above stated,  
42 and bonds secured only by mortgage on the property and franchise of a  
43 public utility which shall exceed in the aggregate ten per centum of  
44 the assessed value of all the real and personal property in the city:

45 Provided, That the cities now incorporated as fourth class cities may  
46 while so incorporated incur indebtedness up to the limits contained in  
47 the act of incorporation;

48 (c) For laying and collecting rents, tolls and excises;

49 (d) For the regulation of trade, occupations and amusements within  
50 its boundaries, and for the regulation and restriction of the territory

51 within which saloons where intoxicating liquors are sold at retail, may  
52 be located, but no charter shall permit the sale of such liquor in any  
53 county where such sale is prohibited by operation of the general local  
54 option law of the state;

55 (e) For the punishment of those who violate its law or ordinances,  
56 but no punishment shall exceed a fine of five hundred dollars or im-  
57 prisonment for ninety days, or both in the discretion of the court;  
58 said imprisonment may be in the county jail or city prison, or in any  
59 workhouse in the state authorized by law to receive prisoners from  
60 such city;

61 (f) For the establishment of any department that it may deem  
62 necessary for the general welfare of the city, and for the separate in-  
63 corporation thereof: Provided, however, That these provisions shall not  
64 be construed to extend to public schools;

65 (g) For the reasonable use, regulation and control of the surface of  
66 its streets, and of the space above and beneath them;

67 (h) For assessing and reassessing the cost, or any portion thereof,  
68 of any public improvement to a special district;

69 (i) For the purchase of the franchises, if any exist, and of property  
70 used in the operation of companies or individuals engaged in the plank-  
71 road, cemetery, hospital, alms-house, electric light, gas, heat, water and  
72 power business, and in cities having not less than twenty-five thousand  
73 inhabitants the purchase of the franchise, if any, and the property of

74 street railway and tram railway companies; state and county taxes  
75 shall be paid upon such transportation property so purchased and owned  
76 by any such city;

77 (j) For owning and operating transportation facilities within its  
78 limits, if according to the next preceding United States census it had  
79 a population of not less than twenty-five thousand inhabitants;

80 (k) For the purchase of private property for any public use or pur-  
81 pose within the scope of its powers;

82 (l) For the use, by others than the owner, of property located in  
83 streets, alleys and public places and used in the operation of a public  
84 utility, upon the payment of a reasonable compensation to the owners  
85 thereof;

86 (m) For the initiative \* \* \* \* and referendum on all matters  
87 within the scope of its powers [and for the recall of its officials];

88 (n) For a plan of streets and alleys within and for a distance of  
89 not more than three miles beyond its limits;

90 (o) For the use, control and regulation of streams, waters and water  
91 courses within its boundaries, but not so as to conflict with the law or  
92 action thereunder where a navigable stream is bridged or dammed;  
93 or with riparian or littoral rights without their corporate limits;

94 (p) For altering, amending or repealing any special act affecting  
95 any municipal concerns or existing municipal department, but the de-  
96 partment in control of the public schools shall not be construed to be



97 a municipal department;

98 (q) For the enforcement of all such local, police, sanitary and other  
99 regulations as are not in conflict with the general laws;

100 (r) For a system of civil service;

101 (s) For non-partisan primaries and elections;

102 (t) For the exercise of all municipal powers in the management and  
103 control of municipal property and in the administration of the muni-  
104 cipal government, whether such powers be expressly enumerated or not;  
105 for any act to advance the interests of the city, the good government  
106 and prosperity of the municipality and its inhabitants and through its  
107 regularly constituted authority to pass all laws and ordinances relating  
108 to its municipal concerns, subject to the constitution and general laws  
109 of this state.

1 SEC. 18. Any city desiring to revise its charter shall do so in the  
2 following manner, unless otherwise provided by charter: When its  
3 legislative body shall by a [three-fifths] vote of the members-elect de-  
4 clare for a general revision of the charter, or when an initiatory peti-  
5 tion shall be presented therefor as provided in section 25 of this act,  
6 the question of having a general charter revision shall be submitted to  
7 the electors for adoption or rejection at the next general or municipal  
8 election, or at a special election, in case the electors shall, by a ma-  
9 jority vote, declare in favor of such a revision, a charter commission  
10 shall be elected within sixty days consisting of one elector from each

11 ward and three electors at large, having a residence of at least three  
12 years in the municipality, or the legislative body by a [three-fifths]  
13 vote of the members-elect or the initiatory petition may provide that the  
14 charter commission be selected at the same election at which the proposi-  
15 tion to revise is submitted; the selection shall be void if the proposition  
16 to revise is not adopted, no city officer or employe, whether elected or  
17 appointed, shall be eligible to a place on said commission. [Candi-  
18 dates shall be nominated by petition without reference to or designation  
19 of party affiliation, signed in the case of the commissioner from each  
20 ward by not less than fifty electors residing in such ward and in the  
21 case of commissioners at large by not less than five hundred electors  
22 residing in such city asking that the name of the candidate designated  
23 be placed upon the ballot.] The names of all candidates \* \* \* \*  
24 [so nominated] shall be placed upon a separate ballot at the election  
25 designated to be held for the election of a charter commission and with-  
26 out their party affiliations designated; the candidate having the greatest  
27 number of votes in each ward shall be declared elected, and the three  
28 candidates at large having the greatest number of votes cast in the city  
29 shall be declared elected; the nomination and election of the members  
30 of such commission, except as herein specified, shall be conducted as  
31 near as may be as now provided by law for the nomination and election  
32 of city and ward officers in the respective cities of this state.

1     Sec. 21. Any existing city charter, whether passed pursuant to the

2 provisions of this act or [heretofore granted or passed] by the state  
3 legislature [for the government of a city] may, from time to time be  
4 amended in the manner following: An amendment may be proposed  
5 by the legislative body of the city on a [three-fifths] vote of the mem-  
6 bers-elect or by an initiatory petition as herein provided, and shall be  
7 submitted to the electors of such city as herein provided at the next  
8 general or special election. When it originates in the legislative body  
9 it shall be published and remain on the table for thirty days before  
10 action is taken thereon. The form in which any proposed amendment  
11 [to a city charter] shall be submitted on the ballot, unless provided  
12 for in the initiatory petition shall be determined by [resolution by] the  
13 legislative body.

1 SEC. 22. Every amendment to a [city] charter [whether passed pur-  
2 suant to the provisions of this act or heretofore granted or passed by  
3 the state legislature for the government of such city,] before its sub-  
4 mission to the electors, and every charter before the final adjournment  
5 of the commission, shall be transmitted to the governor of the state.  
6 If he shall approve it, he shall sign it; if not, he shall return the charter  
7 to the commission and the amendment to the legislative body of the  
8 city, with his objections thereto, which shall be spread at large on the  
9 journal of the body receiving them, and it shall re-consider it. On such  
10 re-consideration, if two-thirds of the members-elect agree to pass it, it  
11 shall be submitted to the electors.

1    SEC. 23. Every city charter and amendment thereto, [whether of  
2 cities incorporated under the provisions of this act, or under an existing  
3 charter of the city heretofore granted or passed by the legislature for  
4 the government of the city,] before submission to the electors, shall  
5 be published as the commission or legislative body respectively may  
6 prescribe.

1    SEC. 24. If the charter, or any amendment thereto, [whether of  
2 cities incorporated under the provisions of this act, or under an exist-  
3 ing charter of the city heretofore granted or passed by the legislature  
4 for the government of the city,] be approved, then two printed copies  
5 thereof, with the vote for and against duly certified by the city clerk  
6 shall, within thirty days after the vote is taken, be filed with the sec-  
7 retary of state, and a like number with the county clerk [of the county  
8 in which such city is located,] and shall thereupon become law.

1    SEC. 25. The initiatory petition herein referred to shall be [verified  
2 by the person or persons who obtain the signatures, and shall be signed  
3 by a number of electors equal to five per centum of the total vote cast  
4 for the executive office at the last preceding election, and shall be filed  
5 with the city or village clerk. Such verification shall state that such  
6 signatures were obtained by the person so verifying said petition, that  
7 such signatures are the signatures of the persons purporting to sign  
8 the same, and that the person verifying such petition verily believes

9 that the signers obtained thereto are duly qualified electors. Any per-  
 10 son who shall subscribe and swear to a verification false in any partic-  
 11 ular shall be deemed guilty of the crime of perjury: Provided, how-  
 12 ever, That no special election shall be called to vote on any initiatory  
 13 petition, unless the same is signed by a number of electors equal to  
 14 fifteen per centum of the total vote cast for the executive office at the  
 15 last preceding election. No charter or amendment to any charter sub-  
 16 mitted to the electors by the initiative and receiving an affirmative ma-  
 17 jority of the votes cast thereon shall be held unconstitutional, invalid or  
 18 void on account of the insufficiency of the petition by which submis-  
 19 sion of the same was procured.]

1     Sec. 28. \*   \*   \*   \*   [Any city may acquire by purchase or con-  
 2 demnation proceedings any lands within or without its corporate limits  
 3 necessary for disposing of sewage or for obtaining or protecting a  
 4 water supply for the city and the inhabitants thereof, and may acquire  
 5 by purchase or condemnation proceedings when authorized by the elec-  
 6 tors of such city any public utility within the corporate limits of said  
 7 city. The jury in condemnation proceedings shall consist of twelve  
 8 freeholders drawn from the body of the county and if they find the nec-  
 9 essity for such use exists and, in case of sewage that the use proposed  
 10 will not materially injure the health or safety of persons living adjacent  
 11 to the land, they shall award the compensation to be paid therefor.  
 12 Other proceedings in such cases shall conform to the general law au-

13 thorizing cities and villages to take or hold land or property outside  
14 of their corporate limits as contained in chapter 90 of the Compiled  
15 Laws of 1897, or any other appropriate act now or hereafter existing.

1 SEC. 38. [It is intended by this act to re-enact sections 21, 22, 23  
2 and 24, as above amended pursuant to the adoption of the amendment  
3 to section 21 of article VIII of the state constitution by vote of the  
4 electors on November 5, 1912, so that cities under existing charters  
5 heretofore granted by the legislature shall have the same right and  
6 power to amend such charters as cities that have adopted complete  
7 charter revisions under the act hereby amended.

1 SEC. 2. All acts or parts of acts contravening the provisions of this  
2 act are hereby repealed.

1 SEC. 3. This act is hereby declared to be immediately necessary for  
2 the preservation of the public peace, health and safety.

# Exhibit B

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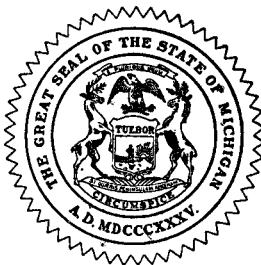
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CHARLES S. PIERCE

CLERK OF THE HOUSE OF REPRESENTATIVES.

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	taken from general order April 25, placed on order of third reading .....	2122
	read third time April 25, tabled .....	2128
83. A	bill to amend section 7 of Act No. 6 extra session of 1907 (care of dependent and delinquent children): file No. 466. introduced by Mr. Amberson. received April 15, referred to Committee on Judiciary .....	1592
	reported favorably April 16, placed on general order .....	1648
	considered in committee of whole April 23, placed on order of third reading .....	1973
	read third time April 24, passed, returned .....	2029
85. A	bill to amend section 11 of Act No. 190 of 1891 (prevention of election frauds): file No. 72. introduced by Mr. James. received February 6, referred to Committee on Elections .....	361
	reported favorably March 20, placed on general order .....	1043
	considered in committee of whole March 28, placed on order of third reading .....	1238
	read third time April 1, passed, returned .....	1285
86. A	bill to prohibit sale of deleterious sausage: file No. 73. introduced by Mr. Murtha. received March 24, referred to Committee on Public Health .....	1101
	reported favorably April 3, placed on general order .....	1345
	considered in committee of whole April 21, placed on order of third reading .....	1859
	read third time April 22, passed, returned .....	1906
88. A	bill to amend the title and sections 4, 18, 21, 22, 23, 24, 25 and 35 of Act 279 of 1909 (incorporation of cities and changing their boundaries): file No. 75. introduced by Mr. Verdier. received, February 27, referred to Committee on City Corporations. ....	636
	reported amended March 4, amendments concurred in and placed on general order .....	707-9
	made special order March 4, for March 6; 300 extra copies ordered printed .....	710-11
	considered in committee of whole March 6, amended and placed on immediate passage .....	760-3
	read third time March 6, passed, title amended, given immediate effect, returned .....	764
89. A	bill to amend section 15 of Act 156 of 1851 (organization or alteration of townships by boards of supervisors): file No. 76. introduced by Mr. Wood. received February 6, referred to Committee on State Affairs .....	362
	reported favorably February 14, placed on general order .....	437
	considered in committee of whole February 18, placed on order of third reading .....	482
	read third time February 20, passed, given immediate effect, returned .....	523
91. A	bill to amend section 10 of Act 152 of 1885 (authorizing establishment of Soldiers' home): file No. 199. introduced by Mr. McNaughton. received February 26, referred to Committee on Michigan Soldiers' Home .....	599
	reported favorably March 5, placed on general order .....	734
	considered in committee of whole March 14, tabled .....	938

provided for that purpose. The result of said vote shall be certified to the board of supervisors and to the Secretary of State.

If a majority of the electors voting upon such proposition shall vote in favor of the repeal of said Act No. 215 of the Public Acts of 1907, then this act shall be in full force and effect and not otherwise.

The question being on the adoption of the proposed amendment made by the committee,

The amendment was adopted and the bill was placed on the order of Third Reading of Bills for consideration on or after Monday, March 3.

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By unanimous consent, the House returned to the order of

MESSAGES FROM THE SENATE.

A message was received from the Senate transmitting Senate bill No. 88 (file No. 75), entitled

A bill to amend the title and sections 4, 18, 21, 22, 23, 24, 25 and 35 of Act No. 279 of the Public Acts of 1909, entitled "An act to provide for the incorporation of cities and for changing their boundaries," as amended by Act No. 203 of the Public Acts of 1911, and to add a new section thereto.

The bill was read a first and second time by its title and referred to the Committee on City Corporations.

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Mr. Bierd moved that, when the House adjourns tomorrow it stand adjourned until Monday, March 3, at 9 o'clock p. m.

The motion prevailed.

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Mr. Hicks asked and obtained a leave of absence from tomorrow's session.

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Mr. Tufts moved that the House adjourn.

The motion prevailed, the time being 5:30 o'clock p. m.

The Speaker declared the House adjourned until tomorrow at 9 o'clock a. m.

CHARLES S. PIERCE,  
Clerk of the House of Representatives.

parties of this State, and making an appropriation to carry out the provisions of the same.

The bill was read a first and second time by its title and referred to the Committee on Elections.

Mr. Bricker also introduced

House bill No. 511, entitled

A bill to amend section 6 of chapter 15 of the Revised Statutes of 1846, as amended, being section 1159 of the Compiled Laws of 1897, relative to removal from office.

The bill was read a first and second time by its title and referred to the Committee on Judiciary.

Mr. Fitzgerald introduced.

House bill No. 512, entitled

A bill providing for venting stereotyping or electrotyping machines and of furnaces for casting metals to outside of building in which same are situated, and to provide a penalty for violation of same.

The bill was read a first and second time by its title and referred to the Committee on State Affairs.

Mr. Bayliss introduced

House bill No. 513, entitled

A bill to declare telephone lines and telephone companies within the State of Michigan to be common carriers, to regulate the business of the same, provide for the consolidation thereof and prescribe a penalty for the violation of this act.

The bill was read a first and second time by its title and referred to the Committee on Private Corporations.

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By unanimous consent, the House took up the order of

#### REPORTS OF STANDING COMMITTEES.

The Committee on City Corporations, by Mr. Palmer, Chairman, reported

Senate bill No. 88 (file No. 75), entitled

A bill to amend the title and sections 4, 18, 21, 22, 23, 24, 25 and 35 of Act No. 279 of the Public Acts of 1909, entitled "An act to provide for the incorporation of cities and for changing their boundaries," as amended by Act No. 203 of the Public Acts of 1911, and to add a new section thereto;

With the following amendments thereto, recommending that the amendments be concurred in and that when so amended the bill pass:

1. Amend by striking out of line 9 of section 4 the word "three-fifths" and inserting in lieu thereof the word "two-thirds."

2. Amend by striking out of lines 15 and 16 of section 4 the words "The limit of such indebtedness shall not be increased oftener than once a year."

3. Amend by striking out of lines 32, 33 and 34 of section 4 the

words "city shall provide in some way for the ultimate repayment of the entire cost of any public utility out of the earnings thereof" and inserting in lieu thereof the words "charter shall provide for the creation of a sinking fund by setting aside a percentage of the gross or net earnings of the public utility sufficient for the payment of the mortgage bonds at maturity."

4. Amend by striking out of line 65 of section 4 after the first word "the" the word "reasonable."

5. Amend by inserting in line 69 of section 4 after the word "purchase" the words "or condemnation."

6. Amend by inserting in line 77 of section 4 after the word "owning" the word "constructing."

7. Amend by inserting in line 78 of section 4 after the word "limits" the words "and in its adjacent and adjoining suburbs within distance of ten miles from any portion of its city limits."

8. Amend by inserting in line 80 of section 4 after the word "purchase" the words "and condemnation."

9. Amend by adding at the end of line 81 of section 4 after the word "powers" the following:

"Also for the acquirement, ownership, establishment, construction and operation either within or without its corporate limits of public utilities for supplying water, light, heat, power and transportation to the municipality and the inhabitants thereof for domestic, commercial and municipal purposes; and for the sale and delivery of water, heat, power and light without its corporate limits to an amount not to exceed twenty-five per cent of that furnished by it within its corporate limits for like purposes; and for the operation of transportation lines without the municipality and within ten miles from its corporate limits: Provided, That the right to own or operate such transportation facilities shall not extend to any city of less than twenty-five thousand inhabitants, according to the last preceding United States census.

The acquirement of any such utility together with all properties, franchises and rights necessary for its establishment, ownership, construction, operation, improvement, extension and maintenance, whether such properties, franchises and rights are situated within or without the corporate limits of such city may be either by purchase or condemnation. If by condemnation, the provisions of Act No. 149 of the Public Acts of Michigan, approved March 25, 1911, entitled "An act to provide for the condemnation by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms 'Public corporations,' 'State agencies' and 'private property,' as used herein," or such other appropriate provisions therefor as exist or shall be made by law may be adopted and used for the purpose of instituting and prosecuting such condemnation proceedings: Provided however, That no such public utility shall be so acquired unless the proposition to do so shall have first received the affirmative vote of three-fifths of the electors of such city voting thereon at a regular or special municipal election, and upon such proposition women taxpayers having the qualifications of male electors shall be entitled to vote."

10. Amend by placing a period in line 8 of section 18 after the word "election."

11. Amend by capitalizing the word "in" in line 8 of section 18.

12. Amend by inserting in line 10 of section 21 after the word "thereon" the words "Amendments proposed for submission to the electors after April 10, 1913, shall remain on the table of the legislative body thirty days before action is taken thereon."

13. Amend by striking out of line 9 of section 22 the word "it" and inserting in lieu thereof the words "if it be an amendment proposed by the legislative body, such body."

14. Amend by striking out of line 9 of section 22 the words "on such."

15. Amend by striking out of line 10 of section 22 the word "reconsideration" and inserting in lieu thereof the word "and."

16. Amend by adding to line 11 of section 22 after the word "electors" the following: "If it be an amendment proposed by initiatory petition, it shall be submitted to the electors notwithstanding such objections."

17. Amend by adding at the end of section 23 the following: "There may be submitted with any charter or amendment to a charter independent sections or propositions and such of them as receive a three-fifths vote of the electors voting thereon shall become a part of such charter or shall prevail as such amendments."

The report was accepted and the committee discharged.

The question being on the adoption of the amendments to the bill recommended by the committee,

The amendments were adopted.

The bill was then referred to the Committee of the Whole and placed on the general orders.

The Committee on State Affairs, by Mr. Bierd, Chairman, reported House bill No. 40 (file No. 20), entitled

A bill providing for the State inspection of sugar beet testing, weighing and taring, the appointment of inspectors and their payment therefor, and settlements made in payment for beets;

And

House bill No. 58 (file No. 11), entitled

A bill to provide for the regulation and inspection of analyses and other tests of sugar beets, and to provide compensation for making such tests;

With a substitute therefor, entitled

A bill providing for state inspection of sugar beet testing, weighing, and taring, the appointment of inspectors, and the payment for their services;

Recommending that the substitute be concurred in and that the bills as substituted pass, and further recommending that the substitute be known as the Croll-McBride bill.

The report was accepted and the committee discharged.

The question being on the adoption of the proposed substitute recommended by the committee,

The substitute was adopted.

The question then being on concurring in the further recommendation of the committee,

The further recommendation of the committee was concurred in and the bill was ordered known as the Croll-McBride bill.

The bill was then ordered printed, referred to the Committee of the Whole and placed on the general orders.

The Committee on State Affairs, by Mr. Bierd, Chairman, also reported

House bill No. 199, entitled

A bill providing for the protection of guests in hotels from fire and insanitary conditions; for the inspection of hotels, and prescribing penalties for violations of this act;

With a substitute therefor, entitled

A bill relating to the conduct of hotels, inns and public lodging houses;

Recommending that the substitute be concurred in and that the bill as substituted pass.

The report was accepted and the committee discharged.

The question being on the adoption of the proposed substitute recommended by the committee,

The substitute was adopted.

The bill, as substituted, was then ordered printed, referred to the Committee of the Whole and placed on the general orders.

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The House took up the regular order of business.

#### MOTIONS AND RESOLUTIONS.

Mr. Sproat moved to reconsider the vote by which the House on Monday, March 3, failed to pass the following named bill:

House bill No. 287 (file No. 83), entitled

A bill to prevent the excessive use of vinous, brewed, malt, fermented, spirituous or intoxicating liquors, and to encourage sobriety by prohibiting treating with any of such liquors in saloons, barrooms, or houses of immoral character, or any place where intoxicating liquors are sold.

The motion prevailed, by a rising vote—yeas, 40; nays, 32.

The question being on the passage of the bill,

Mr. Sproat moved that the bill be laid on the table.

The motion prevailed.

Mr. Palmer moved that the rules be suspended and that the following named bill, now on the order of General Orders, be made a special order for consideration Thursday, March 6, at 10:30 a. m.:

Senate bill No. 88 (file No. 75), entitled

A bill to amend the title and sections 4, 18, 21, 22, 23, 24, 25 and 35 of Act No. 279 of the Public Acts of 1909, entitled "An act to provide for the incorporation of cities and for changing their boundaries," as amended by Act No. 203 of the Public Acts of 1911, and to add a new section thereto.

The motion did not prevail, two-thirds of all the members present not voting therefor.

Mr. Palmer moved to reconsider the vote by which the motion did not prevail.

The motion prevailed.

The question being on the motion made by Mr. Palmer that the rules be suspended and that the above named bill be made a special order for Thursday, March 6, at 10:30 o'clock a. m.,

The motion prevailed, two-thirds of all the members present voting therefor—yeas, 72.

Mr. Lee moved that three hundred copies of the following named bill, reported by the Committee on City Corporations today, be ordered printed in Journal form for the use of the House:

Senate bill No. 88 (file No. 75), entitled

A bill to amend the title and sections 4, 18, 21, 22, 23, 24, 25 and 35 of Act No. 279 of the Public Acts of 1909, entitled "An act to provide for the incorporation of cities and for changing their boundaries," as amended by Act No. 203 of the Public Acts of 1911, and to add a new section thereto.

The motion prevailed.

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Mr. Jerome moved that the House adjourn.

The motion prevailed, the time being 6:10 o'clock p. m.

The Speaker declared the House adjourned until tomorrow at 2 o'clock p. m.

CHARLES S. PIERCE,  
Clerk of the House of Representatives.

Mr. Hopkins introduced

House bill No. 530, entitled

A bill permitting the catching or taking by use of net of German carp, red horse, suckers, mullet, dog fish and gar-fish or bill fish, in the waters of the inland lakes in this State.

The bill was read a first and second time by its title and referred to the Committee on Fish and Fisheries.

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Messrs. McPhillips, Middleton and Whelan entered the House and took their seats.

#### SPECIAL ORDER.

The Speaker announced that the hour had arrived for the special order and laid before the House

Senate bill No. 88 (file No. 75), entitled

A bill to amend the title and sections 4, 18, 21, 22, 23, 24, 25 and 35 of Act No. 279 of the Public Acts of 1909, entitled "An act to provide for the incorporation of cities and for changing their boundaries," as amended by Act No. 203 of the Public Acts of 1911, and to add a new section thereto.

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Mr. Farmer moved that the House resolve itself into a Committee of the Whole on the special order.

The motion prevailed.

The Speaker called Mr. Farmer to the Chair.

After a time spent in the consideration of the bill the committee rose, and through its chairman reported progress on the bill, recommending that the bill be given further consideration.

The recommendation was concurred in, and the committee was given leave to further consider the bill.

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Mr. Jensen moved that the House take a recess until 1:30 o'clock p. m.

The motion prevailed, the time being 11:55 o'clock a. m.

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#### AFTER RECESS.

1:30 o'clock p. m.

The House was called to order by the Speaker.

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Mr. Wellman entered the House and took his seat.



The House resumed the order of

SPECIAL ORDER.

The Speaker laid before the House  
Senate bill No. 88 (file No. 75), entitled

A bill to amend the title and sections 4, 18, 21, 22, 23, 24, 25 and 35 of Act No. 279 of the Public Acts of 1909, entitled "An act to provide for the incorporation of cities and for changing their boundaries," as amended by Act No. 203 of the Public Acts of 1911, and to add a new section thereto.

Mr. Farmer moved that the House resolve itself into a Committee of the Whole on the special order.

The motion prevailed.

The Speaker called Mr. Farmer to the Chair.

After a time spent in the consideration of the bill the committee rose, and through its chairman made a report, recommending the adoption of the following amendments thereto, and the passage of the bill when so amended:

1. Amend by inserting in line 1 of enacting section 1 after the figures "25" the figures "27."
2. Amend by striking out of line 9 of section 4 the word "two-thirds" and inserting in lieu thereof the word "three-fifths."
3. Amend by striking out of the amendment to lines 32, 33 and 34 of section 4 the word "a" and inserting in lieu thereof the word "such."
4. Amend by inserting in the amendment to lines 32, 33 and 34 of section 4 after the word "utility" the words "as may be deemed."
5. Amend by inserting in line 76 of section 4 after the word "city" the words "also local taxes on any portion of such property lying outside of city limits the same as would be paid by private corporations."
6. Amend by inserting in line 76 of section 4, as amended, after the word "corporations" the words "Provided, That the operation and management of all such franchises and property acquired hereunder shall be conducted under a system of civil service which shall be adopted by the electors voting thereon at the time of such acquisition, and not otherwise."
7. Amend by adding a new subdivision to section 4 to stand as subdivision "u" and to read as follows:  
(u) For the issuance of bonds of said city for the purpose of providing first cost of installation and connection of sewers and water works on and to property in such cities used solely for dwelling-house purposes, when such installation and connection shall be ordered by the proper health authorities; and to provide a lien on such property for, and manner of payment of, moneys so used.
8. Amend by striking out of lines 21 and 22 of section 18 the words "five hundred electors residing" and inserting in lieu thereof the words "fifty electors residing in each ward."
9. Amend by adding at the end of section 18 the following: "If

upon the rejection by the electors of a proposed charter, whether submitted heretofore or hereafter, or prepared or submitted under and pursuant to this act or to any of the provisions of the law of which this act is amendatory or supplemental, a petition shall be filed with the legislative body, signed by a number of electors equal to ten per cent of the number voting for executive officer at the last preceding election, the legislative body shall thereupon submit such charter at the next general or municipal election with only such changes therein as shall be necessitated therein by postponement in taking effect. The foregoing provision shall not be limited, restricted or subject to any provision limiting the time when the question of adopting a revised charter may be submitted to the electors."

10. Amend by striking out section 25 and inserting in lieu thereof the following to stand as said section:

Sec. 25. The initiatory petitions herein referred to shall be signed at the regular registration or election places, at a regular registration or election, and only by duly registered electors, and under the supervision of the officials thereof, who shall verify the genuineness of signatures and certify the fact that the signers are registered electors of the city, and said petitions when so verified and certified shall be filed with the city clerk. No such initiatory petition shall be effective unless signed by fifteen per cent of the registered voters entitled to vote for municipal officers.

11. Amend by adding after section 25 a section to stand as section 27 and to read as follows:

Sec. 27. Each city shall have at least one representative on the board of supervisors of the county. The present representation of cities now organized on such boards of supervisors shall remain as now fixed, until changed according to law, but no city shall have power to increase its representation on such board of supervisors: Provided however, That any existing city of not to exceed fifteen thousand population shall have the right and authority to amend its charter to provide for at least one representative on the board of supervisors for each ward of such city as now constituted.

12. Amend by inserting in line 6 of section 35 after the word "utility" the words "and any water power and water rights for the use of such city."

The question being on the adoption of the proposed amendments made by the committee,

Mr. Jerome moved that there be a call of the House.

The motion prevailed.

#### PROCEEDINGS UNDER THE CALL.

The roll of the House was called by the Clerk, who announced that Messrs. Petermann and Wilcox were absent without leave.

Mr. Koehler moved that Mr. Petermann be excused from the operation of the call.

The motion prevailed.

Mr. Ashley moved that the Sergeant-at-arms be despatched after the absentee without leave.

The motion prevailed.

Mr. Bierd moved that the House proceed with business under the call.

The motion prevailed.

The question being on the adoption of the proposed amendments made by the committee,

Mr. Jerome asked that the question be divided and that the vote be taken separately on the tenth named amendment and on the other named amendments to the bill.

The question was accordingly divided.

The question then being on the adoption of the amendments other than the tenth named amendment, made to the bill by the Committee of the Whole,

The amendments were adopted.

The question then being on the adoption of the tenth named amendment,

Mr. Jerome demanded the yeas and nays.

The demand was seconded.

The tenth named amendment was then not adopted, a majority of all the members present and voting thereon not voting therefor by yeas and nays as follows:

## YEAS.

Mr. Bierd  
Chamberlain  
Croll  
Eisenmann

Mr. Fitzgerald  
Flowers  
Freeman  
Holcomb

Mr. Hopkins  
Jensen  
Middleton  
Moore

Mr. Pray  
Smith, Newel  
Weidenfeller  
Young

16

## NAYS.

Mr. Ashley  
Bayliss  
Bricker  
Burns  
Catlin  
Clark  
Copley  
Daprato  
Downing  
Dunn  
Evans  
Farmer  
Follett  
Foote  
Fralick  
Gahagan  
Glasner  
Gray  
Griggs

Mr. Henry  
Hicks  
Hinkley  
Holland  
Hollway  
Hulse  
Jakway  
Jerome  
Kappler  
Koehler  
Lee  
Leonard  
Maas  
Martz  
McBride, C. H.  
McBride, J. N.  
McLachlan  
McMillan  
McNitt

Mr. McPhillips  
Monteith  
Morgan  
Murphy  
Nank  
Nash  
Neller  
Oakley  
Odell  
Palmer  
Peckham  
Perrizo  
Plumley  
Rayburn  
Rice  
Richardson  
Ruff  
Santo

Mr. Schaeffer  
Schmidt  
Sherman, A. A.  
Sherman, A. J.  
Skeels  
Smith, C. W.  
Sproat  
Stevens  
Sutton  
Taylor  
Tufts  
Wellman  
Wenting  
Whelan  
Wieland  
Wolcott  
Wood  
Speaker

74

The Sergeant-at-Arms announced Mr. Wilcox at the bar of the House.

Mr. Hinkley moved that Mr. Wilcox be admitted within the bar, and be allowed to take his seat.

The motion prevailed.

Pending reference of Senate bill No. 88 (file No. 75), to the order of Third Reading of Bills,

Mr. Palmer moved that the rules be suspended and that the bill be placed upon its immediate passage.

The motion prevailed, two-thirds of all the members present voting therefor.

The bill was then read a third time and passed, a majority of all the members-elect voting therefor by yeas and nays as follows:

## YEAS.

Mr. Ashley	Mr. Glasner	Mr. McNitt	Mr. Schaeffer
Bayliss	Gray	McPhillips	Schmidt
Bierd	Griggs	Middleton	Sherman, A. A.
Bricker	Henry	Monteith	Sherman, A. J.
Burke	Hicks	Moore	Skeels
Burns	Hinkley	Morgan	Smith, C. W.
Catlin	Holcomb	Murphy	Smith, Newel
Chamberlain	Holland	Nank	Sproat
Clark	Hollway	Nash	Stevens
Copley	Hulse	Neller	Sutton
Crapser	Jakway	Oakley	Taylor
Croll	Jensen	Odell	Tufts
Daprato	Jerome	Palmer	Warner
Downing	Kappler	Peckham	Wellman
Dunn	Koehler	Perizzo	Wenting
Eisenmann	Lee	Plumley	Whelan
Evans	Leonard	Pray	Wieland
Farmer	Maas	Rayburn	Wilcox
Flowers	Martz	Rice	Wolcott
Follett	McBride, C. H.	Richardson	Wood
Foote	McBride, J. N.	Ruff	Young
Fralick	McLachlan	Santo	Speaker
Freeman	McMillan		

90

## NAYS.

Mr. Fitzgerald	Mr. Gahagan	Mr. Hopkins	Mr. Weldenfeller
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4

The question being on agreeing to the title of the bill,

Mr. Charles H. McBride moved to amend the title so as to read as follows:

A bill to amend the title and sections 4, 18, 21, 22, 23, 24, 25, 27 and 35 of Act No. 279 of the Public Acts of 1909, entitled "An act to provide for the incorporation of cities and for changing their boundaries," as amended by Act No. 203 of the Public Acts of 1911, and to add a new section thereto.

The motion prevailed.

The House agreed to the title of the bill as amended.

Mr. Jerome moved that the bill be ordered to take immediate effect.

Mr. Flowers demanded the yeas and nays.

The demand was seconded.

The motion made by Mr. Jerome then prevailed, and the bill was ordered to take immediate effect, two-thirds of all the members-elect voting therefor by yeas and nays as follows:

## YEAS.

Mr. Ashley  
 Bayliss  
 Bierd  
 Bricker  
 Burke  
 Burns  
 Catlin  
 Chamberlain  
 Clark  
 Copley  
 Crapser  
 Croll  
 Daprato  
 Downing  
 Dunn  
 Eisenmann  
 Evans  
 Farmer  
 Fitzgerald  
 Follett

Mr. Foote  
 Freeman  
 Glasner  
 Gray  
 Griggs  
 Henry  
 Hinkley  
 Holland  
 Hollway  
 Hopkins  
 Hulse  
 Jakway  
 Jerome  
 Kappler  
 Koehler  
 Lee  
 Leonard  
 Maas  
 Martz

Mr. McBride, C. H.  
 McBride, J. N.  
 McMillan  
 McNitt  
 McPhillips  
 Monteith  
 Moore  
 Morgan  
 Murphy  
 Nank  
 Nash  
 Neller  
 Oakley  
 Odell  
 Palmer  
 Peckham  
 Perrizo  
 Plumley  
 Pray

Mr. Rayburn  
 Rice  
 Richardson  
 Santo  
 Schmidt  
 Sherman, A. A.  
 Sherman, A. J.  
 Skeels  
 Smith, C. W.  
 Smith, Newel  
 Sproat  
 Stevens  
 Sutton  
 Taylor  
 Tufts  
 Wellman  
 Wilcox  
 Wolcott  
 Speaker

77

## NAYS.

Mr. Flowers  
 Fralick  
 Gahagan  
 Hicks  
 Holcomb

Mr. Jensen  
 McLachlan  
 Middleton  
 Ruff

Mr. Schaeffer  
 Warner  
 Weidenfeller  
 Wenting

Mr. Whelan  
 Wieland  
 Wood  
 Young

17

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By unanimous consent

Mr. Taylor moved that the rules be suspended and that the House take up the order of Unfinished Business.

The motion did not prevail, two-thirds of all the members present not voting therefor.

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Mr. Young moved that all further proceedings under the call be dispensed with.

The motion prevailed.

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Mr. Middleton asked and obtained a leave of absence from tomorrow's session.

Mr. Hicks asked and obtained a leave of absence from the balance of today's session and from tomorrow's session.

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The House resumed the regular order of business.